

REMARKS

This is a response to the Office Action dated August 8, 2006. Claims 157-160, 162-176, and 178-199 are pending in this application. In the Office Action, Claim 199 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Claims 192-197 and 199 were rejected under 35 U.S.C. § 102(a) for being anticipated by an article by anonymous author entitled "Lettuce by modem" ("Lettuce"), and claim 198 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lettuce. Additionally, Claims 157-192 were rejected under 35 U.S.C. § 103(a) as being unpatentable over AMWAY® Products Delivered on your Schedule, Customer Order Worksheet, published 06/24/1998 ("Amway") in view of Family values, Kiplinger's Personal Finance Magazine, Washington: Feb. 1998. Vol52, Iss.2; pg. 54, 2 pgs, downloaded from ProQuest on the Internet on 1 August 2006 ("Kiplinger"). Claims 157-159, 162-170, 173-176, 179, 181-186, and 188 also were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,737,539 to Edelson et al. ("Edelson et al.") in view of Lettuce. Finally, Claims 160, 171-172, 178, 180, and 189-190 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Edelson et al. in view of Lettuce and further in view of Amway. With this response, Claims 157, 174, 182-183, 192, 195, and 197 have been amended, and Claims 162, 178 have been canceled.

The rejections from the Office Action of August 8, 2006 are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

I. REJECTIONS UNDER 35 U.S.C. § 112, first paragraph

Claim 199 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Office Action notes that while the disclosure does mention multiple orders, it does not describe how they are created and handled. Applicants respectfully disagree. Applicants' disclosure describes in detail systems and methods for creating and handling any and every standing order. Additionally, and as admitted by the Examiner, the disclosure also explains that a user may submit more than one

order. These additional orders are created and handled just like every other standing order created and handled by Applicants system, as set forth in Applicants' claims. Applicants therefore request that this rejection of this claim be withdrawn.

II. REJECTIONS UNDER 35 U.S.C. § 102(a)

In the Office Action, independent claims 192, 195, and 197 were rejected under 35 U.S.C. § 102(a) as being anticipated by Lettuce. With this response, claims 192, 195 and 197 have been amended. Applicants respectfully submit that Lettuce fails to show each element of claims 192, 195, and 197, as amended.

as being unpatentable over Edelson et al. or Edelson et al. in view of Amway.

Independent claims 192, 195, and 197, as amended, each require a system or method that allows a user to be registered “with an electronic commerce system as a First Participation Category, a Second Participation Category or a Third Participation Category, wherein a First Participation Category is not eligible to earn compensation and is eligible to buy products or services at a First Participation Category price, wherein a Second Participation Category is not eligible to earn compensation and is eligible to buy products or services at a Second Participation Category price, and wherein a Third Participation Category is eligible to buy products or services at a Third Participation Category price and is eligible to earn compensation.”

Lettuce generally describes the services and capabilities of the PeaPod online food shopping company. *See* Lettuce, generally. Nowhere does Lettuce teach or suggest registering users in the manner claimed by Applicants. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn. Additionally, claims 193-194, 196 and 198 each depend, either directly or indirectly, from claim 192, 195, or 197. Applications respectfully submit that these claims should be allowed for at least the reasons set forth for the independent claims, and therefore also request that these rejections of these claims be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 103(a)

A. REJECTIONS UNDER LETTUCE

Dependent Claim 198 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lettuce. As described above, Lettuce fails to teach or suggest registering users in the manner claimed by Applicants in claim 197. Dependent claim 198 depends from claim 197, and should be allowed for at least the reasons set forth above for the independent claim.

Accordingly, Applicants respectfully request that this rejection of this claim be withdrawn.

B. REJECTIONS UNDER AMWAY AND KIPLINGER

Claims 157-192 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Amway in view of Kiplinger.

Independent claims 157, 174, and 192, as amended, each require a system or method that allows a user to be registered “with an electronic commerce system as a First Participation Category, a Second Participation Category or a Third Participation Category, wherein a First Participation Category is not eligible to earn compensation and is eligible to buy products or services at a First Participation Category price, wherein a Second Participation Category is not eligible to earn compensation and is eligible to buy products or services at a Second Participation Category price, and wherein a Third Participation Category is eligible to buy products or services at a Third Participation Category price and is eligible to earn compensation.”

Although Amway does relate to multi-level marketing systems, it fails to show the membership structure as claimed by applicants. Kiplinger similarly fails to show such a system. Rather, Kiplinger generally describes a system for placing a standing order via the Internet. Because neither Amway nor Kiplinger teach or suggest a system or method that allows a user to be registered “with an electronic commerce system as a First Participation Category, a Second Participation Category or a Third Participation Category, wherein a First Participation Category is not eligible to earn compensation and is eligible to buy products or services at a First Participation Category price, wherein a Second Participation Category is not eligible to earn compensation and is eligible to buy products or services at a Second Participation Category price, and wherein a Third Participation Category is eligible to buy products or services at a Third Participation Category price and is eligible to earn

compensation,” their combination necessarily cannot teach or suggest this feature. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn.

Dependent claims 158-173 and 175-191 depend, either directly or indirectly, from either claim 157 or 174. For at least the reasons set forth for the independent claims, claims 158-173 and 175-191 are patentable over the combination of Amway and Kiplinger. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn.

C. REJECTIONS UNDER EDELSON AND LETTUCE

Claims 157-159, 163-170, 173-176, 179, 181-186, and 188 also were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,737,539 to Edelson et al. (“Edelson et al.”) in view of Lettuce.

Independent claims 157 and 174 are described above.

Edelson et al. discloses an “...electronic prescription creation system for use by professional prescribers at the point of care [which] has a prescription division subsystem permitting creation of a single prescription to be automatically divided into two components for fulfillment [sic] of one portion quickly and locally at higher cost and of another portion by remote mail order taking more time but providing a cost saving for a major part of the prescription.” *See* Edelson et al., Abstract.

Lettuce is described above. As described above, Lettuce fails to show a system or method that allows a user to be registered “with an electronic commerce system as a First Participation Category, a Second Participation Category or a Third Participation Category, wherein a First Participation Category is not eligible to earn compensation and is eligible to buy products or services at a First Participation Category price, wherein a Second Participation Category is not eligible to earn compensation and is eligible to buy products or services at a Second Participation Category price, and wherein a Third Participation Category is eligible to buy products or services at a Third Participation Category price and is eligible to earn compensation.” Edelson et al. fails to fill the gap. Indeed, Edelson et al. is silent with respect to a membership structure with varying levels of compensation and pricing. As neither Edelson et al. nor Lettuce teach or suggest all the limitations of

independent claims 157 and 174, applicants submit that these claims are patentable over the combination of Edelson et al. and Lettuce and respectfully request that these rejections of these claims be withdrawn.

Dependent claims 158-159, 163-170, 173, 175-176, 179, 181-186, and 188 depend, either directly or indirectly, from either claim 157 or 174. For at least the reasons set forth for the independent claims, claims 158-159, 162-170, 173, 175-176, 179, 181-186, and 188 are patentable over the combination of Edelson et al. and Lettuce. Accordingly, Applicants respectfully request that these rejections of these claims be withdrawn

D. REJECTIONS UNDER EDELSON, LETTUCE, AND AMWAY

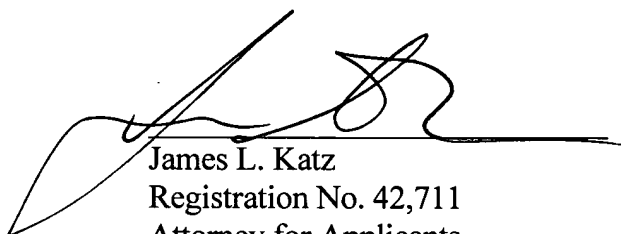
Claims 160, 171-172, 180, and 189-190 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Edelson et al. in view of Lettuce and further in view of Amway. Edelson, Lettuce and Amway are described above. As each reference fails to show a system or method that allows a user to be registered “with an electronic commerce system as a First Participation Category, a Second Participation Category or a Third Participation Category, wherein a First Participation Category is not eligible to earn compensation and is eligible to buy products or services at a First Participation Category price, wherein a Second Participation Category is not eligible to earn compensation and is eligible to buy products or services at a Second Participation Category price, and wherein a Third Participation Category is eligible to buy products or services at a Third Participation Category price and is eligible to earn compensation,” their combination necessarily cannot teach or suggest this feature. For at least this reason, Applicants submit that claims 160, 171-172, 178, 180, and 189-190 are patentable over the combination of Edelson, Lettuce, and Amway, and respectfully request that these rejections of these claims be withdrawn.

CONCLUSION

Each of the rejections in the Final Office Action dated August 8, 2006 have been addressed. Applicants submit that all the pending claims are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to call the undersigned if it would expedite the prosecution of this application.

Respectfully submitted,

11/17/07
Dated


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